

INTERLOCAL AGREEMENT REGARDING CONSOLIDATED DISPATCH CENTER LEASE

This **INTERLOCAL AGREEMENT REGARDING CONSOLIDATED DISPATCH CENTER LEASE** (“Agreement”) is entered into as of the Effective Date by and among the **TOWN OF ADDISON, TEXAS**, (“Addison”), the **CITY OF CARROLLTON, TEXAS** (“Carrollton”), the **CITY OF COPPELL, TEXAS** (“Coppell”), and the **CITY OF FARMERS BRANCH, TEXAS**, (“Farmers Branch”), all of whom are Texas home rule municipalities operating under the authority of their respective governing bodies (Addison, Carrollton, Coppell, and Farmers Branch, are hereinafter sometimes referred to collectively as “the Cities”) and **NORTH TEXAS EMERGENCY COMMUNICATIONS CENTER, INC.** (“NTECC”), a Texas non-profit local government corporation (the Cities and NTECC hereafter referred to as the “Parties” or individually as a “Party”).

RECITALS

WHEREAS, the Cities are political subdivisions within the State of Texas engaged in the provision of governmental services for the benefit of its citizens; and

WHEREAS, NTECC is a Texas local government corporation organized by the Cities pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code to assist the Cities in the performance of their governmental functions to promote the common good and general welfare of the Cities, including without limitation, financing, constructing, owning, managing and operating a regional public safety communications center (the “Center”) on behalf of the Cities; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the “Act”) provides authority for local governments of the State of Texas to enter into interlocal agreements with each other and with local government corporations for the purpose of performing governmental functions and services as set forth in the Act; and

WHEREAS, the Parties have identified the Leased Premises (as defined in Section I, below) as the preferred site for the location of the Center; and

WHEREAS, prior to, but in anticipation of, the creation of NTECC as an existing corporate entity, the City Managers of the Cities negotiated, but did not sign, the Lease Agreement; and

WHEREAS, the Cities desire for NTECC to proceed with signing the Lease Agreement so that finish out work on the Leased Premises necessary for the Center and its operations may commence; and

WHEREAS, in consideration of the direct benefits to be derived by the Cities from the construction and maintenance of the Center by NTECC, the Cities desire to pay the rent and other expenses to be owed by NTECC under the Lease; and

WHEREAS, NTECC, as of the Effective Date of this Agreement, has not yet established its own bank accounts, nor entered into a operations agreement with the Cities to provide for the funding of NTECC's functions necessary to provide the services to be provided by NTECC to the Cities; and

WHEREAS, the Parties desire to enter this Agreement for the purpose of establishing the agreement of the Parties regarding the Lease Agreement, the payment of rent under the Lease Agreement, the temporary payment of rent payments by Carrollton for NTECC, and the reimbursement by Addison, Coppell, and Farmers Branch of their respective shares of the rent payments to Carrollton.

NOW, THEREFORE, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the Cities agree as follows:

I. DEFINITIONS

Unless the context clearly indicates a different meaning, the words and phrases set forth in this Article I shall have the following meanings when used in this Agreement:

"Business Day" means any day other than a Saturday, Sunday, or official city holiday in which Carrollton's city hall offices are closed for business.

"CyrusOne" means CyrusOne, LLC, a Delaware limited liability company, whose address is 1649 West Frankford Road, Carrollton, Texas, 75007, or its successors or assigns.

"Effective Date" means the date this Agreement has been approved by the governing bodies of all of the Cities and the Board of Directors of NTECC and signed by the authorized representatives of each Party.

"Lease" means an Office Lease between CyrusOne and NTECC for the lease of the Leased Premises.

"Lease Term" means the period commencing on or about May 1, 2014, and ending April 30, 2029, unless NTECC and CyrusOne agree to extend the term of the Lease for the option period set forth in the Lease, in which case the Lease Term will end April 30, 2034.

"Leased Premises" means approximately 11,800 gross square feet of the building owned by CyrusOne located at 1649 West Frankford Road, Carrollton, Texas.

"Leasehold Improvements" means the improvements to the Leased Premises to be made by CyrusOne as "Landlord Improvements" pursuant to the Lease.

"Leasehold Improvement Costs" means the costs for construction of the improvements to the Leased Premises to be made by CyrusOne as "Landlord Improvements" pursuant to the Lease which costs are estimated to be \$1,800,000.00.

“Operations Agreement” means an agreement among the Cities and NTECC to be negotiated and entered subsequent to the Effective Date of this Agreement relating to the operations and maintenance of the Center, which agreement shall, among other things, describe the services to be provided by NTECC to the Cities, the procedures for adoption of an annual budget for the operations of the Center, and the allocation to the Cities of the costs for NTECC’s services.

“Rent” shall have the meaning assigned to that term under the Lease. The amount of Rent shall be as set forth in Exhibit “A,” attached hereto and incorporated herein by reference.

“Term” means the term set forth in Section 2.01.

II. TERM

2.01 Term. This Agreement shall commence on the Effective Date and end at 11:59:59 p.m. Central Time on the last day prior to the end of the Lease Term, unless extended or terminated earlier as provided in this Agreement.

2.02 Early Termination During Initial Term. Notwithstanding anything to the contrary herein, a City may terminate without cause its participation as a Party to this Agreement prior to the end of the Term subject to the following:

- A. The termination date must fall on September 30 of the year of termination;
- B. The City desiring to terminate its participation in this Agreement must deliver notice to the other Cities and NTECC not later than two (2) years prior to the date of termination;
- C. The City terminating its participation in this Agreement shall not be entitled to reimbursement from the non-terminating Cities or NTECC for expenditures related to the purchase, installation, or maintenance of furniture, fixtures, equipment or leasehold improvements related to construction, maintenance, repair, or use of the Leased Premises or the Center paid by the terminating City prior to the date of termination;
- D. The City terminating its participation in this Agreement shall have given notice of termination of its participation in all other agreements among the Parties relating to operation of the Center and the receipt of benefits from the services provided by the Center; and
- E. Prior to the date of termination, the terminating City must pay any remaining financial obligations related to its share of Rent or the Leasehold Improvement Costs incurred or accrued prior to the date of the termination of the terminating City’s participation in this Agreement.

The terminating City shall have no obligation to pay any amounts which come due under this Agreement following the effective date of said City's termination of its participation in this Agreement.

III. EXECUTION OF LEASE; PAYMENT OF RENT

3.01 NTECC Execution of Lease as Tenant is Public Purpose. The Parties understand, acknowledge, and agree that NTECC shall be the tenant in the Leased Premises under the terms of the Lease, shall be the only Party executing the Lease, and shall be the only Party contractually liable to CyrusOne for the obligations of the tenant as set forth in the Lease. Notwithstanding the foregoing, the Cities acknowledge and agree that (i) NTECC's execution of the Lease and the performance of the tenant's obligations pursuant to the provisions of the Lease are in furtherance of the public purpose for which the Cities formed NTECC, and (ii) payment of Rent and the Leasehold Improvements Cost to CyrusOne, whether paid directly by the Cities or through NTECC, benefits the Cities and their respective residents.

3.03 Execution of Lease by NTECC; Reliance on the Cities Performance. Pursuant to this Agreement, NTECC agrees to sign the Lease as "Tenant." The Cities understand and acknowledge that NTECC would not have signed the Lease but for the agreements by the Cities including but not limited to the Cities' agreement to pay their shares of the Rent and the Leasehold Improvements.

3.04 Current Funds Appropriated. The Cities hereby warrant and represent they have each identified and appropriated current funds as of the Effective Date to pay their respective share of the Rent for the first twelve (12) months of the Lease Term and the costs of the Leasehold Improvements. NTECC and the Cities understand, acknowledge, and agree that, unless the Cities agree among themselves subsequent to the Effective Date of this Agreement to prepay NTECC and/or CyrusOne the amounts due to CyrusOne for Rent for the entire Lease Term, the funds for the Rent for the second and later years of the Lease Term will be subject to annual appropriations by each of the Cities.

3.05 Share of Rent. The Cities agree that their shares of Rent and Leasehold Improvements Cost to be paid pursuant to the Lease shall be allocated as follows:

- | | | |
|----|-----------------|-----|
| A. | Addison: | 19% |
| B. | Carrollton: | 36% |
| C. | Coppell: | 21% |
| D. | Farmers Branch: | 24% |

The Cities understand and acknowledge that, with respect to Rent, the above allocation may be altered from time to time after the Effective Date of this Agreement in accordance with the adjustment of the Cities allocation of costs for operating and maintaining the Center pursuant to the provisions of the Operations Agreement.

3.06 Responsibility for Payment of Rent to CyrusOne.

A. The Cities understand and acknowledge that NTECC is a newly formed corporate entity which, as of the Effective Date of this Agreement, has not established its own bank accounts and has no funds of its own from which to pay the Rent. Until such time as NTECC has established its own funded bank accounts from which to pay Rent, Carrollton agrees to pay Rent directly to CyrusOne. The other Cities agree to pay Carrollton for their respective shares of Rent:

(1) with respect to the Rent installment due on May 1, 2014, not later than May 15, 2014; and

(2) with respect to all subsequent Rent installments, not later than the last Business Day of the calendar month prior to the due date of the Rent, with the first such payment being made not later than May 30, 2014.

Unless otherwise agreed by Carrollton, Carrollton's obligation to make direct payments of Rent to CyrusOne on behalf of NTECC shall terminate after the twelfth (12th) monthly Rent installment. Carrollton agrees to pay Rent installments to CyrusOne when due under the provisions of the Lease.

B. Upon NTECC's establishment of a funded bank account from which it is able to pay Rent to CyrusOne, which account shall be established not later than one (1) year after the Effective Date of this Agreement, the Cities agree to pay their respective shares of Rent to NTECC not later than the last Business Day of the calendar month prior to the due date of the Rent installment. NTECC agrees to pay the Rent to CyrusOne when due under the provisions of the Lease.

C. Nothing in this Section 3.06 shall prohibit a City from pre-paying its share of Rent to NTECC on a quarterly, annual, or other basis as may be agreed by the City and NTECC. In the event of such pre-payment of Rent, NTECC agrees that such funds shall be held and used only for the payment of later installments of Rent as they come due and credited toward the obligations of the City paying such advance amounts.

3.07 Payment for Leasehold Improvement Cost. The Cities agree to pay to Carrollton their respective shares of the installments of the Leasehold Improvement Costs not later than five (5) business days prior to the date they are due pursuant to the provisions of the Lease. Carrollton agrees to timely pay CyrusOne the full amount of the installment of the Leasehold Improvement Costs due.

3.08 Appropriations of Rent. Each City understands and acknowledges that the payment of Rent pursuant to the Lease is of significant public importance and agrees to use its best efforts to appropriate funds each fiscal year to pay the City's share of Rent under the Lease. If a City determines that it does not have funds available to appropriate its share of Rent commencing after the beginning of the City's fiscal year, the City agrees to notify the other

Cities and NTECC of its intent to not appropriate such funds not later May 1 prior to the commencement of the City's next fiscal year.

VIII. MISCELLANEOUS

4.01 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, by hand-delivery or facsimile transmission and addressed to the respective City at the following address:

If intended for Town of Addison:

Town of Addison
Attn: City Manager
5300 Belt Line Road
Dallas, Texas 75254

With copy(ies) to:

City Attorney
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

If intended for City of Carrollton:

City of Carrollton
Attn: City Manager
1945 E. Jackson Road
Carrollton, Texas 75006

With copy(ies) to:

City Attorney
City of Carrollton
1945 E. Jackson Road
Carrollton, Texas 75006

If intended for City of Coppell:

City of Coppell
Attn: City Manager
255 E. Parkway Boulevard
Coppell, Texas 75019

With copy(ies) to:

Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

If intended for City of Farmers Branch:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy(ies) to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

4.02 Governing Law. The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the Cities shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Cities agree to submit to the personal and subject matter jurisdiction of said court.

4.03 Party Responsibility. To the extent allowed by law, and without waiving any governmental immunity available to the Cities under Texas law, or any other defenses the Cities

are able to assert under Texas law, each City agrees to be responsible for its own negligent or otherwise tortious acts or omissions in the course of performance of this Agreement.

4.04 Immunity. It is expressly understood and agreed that, in the performance of this Agreement, none of the Cities waive, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Cities do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any persons or entities who are not parties to this Agreement.

4.05 Entire Agreement. This Agreement represents the entire agreement among the Cities with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

4.06 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

4.07 Recitals. The recitals to this Agreement are incorporated herein.

4.08 Amendment. This Agreement may be amended by the mutual written agreement of all Cities.

4.09 Place of Performance. Performance and all matters related thereto shall be in Dallas County, Texas.

4.10 Authority to Enter Agreement. Each City has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each City has been properly authorized and empowered to sign this Agreement. The persons signing this Agreement hereby represent that they have authorization to sign on behalf of their respective City.

4.11 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

4.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

4.13 Assignment. No City may assign, transfer, or otherwise convey this Agreement without the prior written consent of the other Cities.

4.14 Consents. Unless expressly stated otherwise, whenever the consent or the approval of a City is required herein, such City shall not unreasonably withhold, delay or deny such consent or approval.

4.15 Good Faith Negotiation; Dispute Mediation. Whenever a dispute or disagreement arises under the provisions of this Agreement, the Cities agree to enter into good faith negotiations to resolve such disputes. If the matter continues to remain unresolved, the Cities shall refer the matter to outside mediation, the costs of which shall be shared equally, prior to engaging in litigation (unless delaying the filing of a lawsuit might result in the lawsuit being barred, including but not limited to a bar by a statute of limitations). The provisions of this Section 4.15 shall survive termination.

4.17 Survival of Covenants; No Third Party Beneficiaries. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the Cities, pertaining to a period of time following the termination of this Agreement shall survive termination. This Agreement and all of its provisions are solely for the benefit of the Cities and NTECC, and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

4.18 Source of Payment. Each City paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying City or from funds otherwise lawfully available to the City for use in the payment of the City's obligations pursuant to this Agreement.

4.19 Force Majeure. No City shall be liable to any or all of the other Cities for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the City's respective control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected City's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the City shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.

(Signatures on Following Pages)

SIGNED AND AGREED this _____ day of April, 2014.

TOWN OF ADDISON

By: _____
Lea Dunn, City Manager

ATTEST:

Chris Terry, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of April, 2014.

CITY OF CARROLLTON

By: _____
Leonard Martin, City Manager

ATTEST:

Ashley D. Mitchell, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of April, 2014.

CITY OF COPPELL

By: _____
Clay Phillips, City Manager

ATTEST:

Christel Pettinos, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of April, 2014.

CITY OF FARMERS BRANCH

By: _____
Gary D. Greer, City Manager

ATTEST:

Angela Kelly, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this ____ day of April, 2014.

**NORTH TEXAS EMERGENCY
COMMUNICATIONS CENTER, INC.**

By: _____
_____, President

EXHIBIT "A"
AMOUNT OF RENT PURSUANT TO LEASE

Section 4(a) of the Lease relating to the amount of Rent to be paid reads as follows:

(a) Minimum Annual Rental. Subject to any periods of beneficial occupancy or ramps set forth in this Section, Tenant agrees to pay to Landlord minimum annual rental in the amount of \$318,600.00, payable in monthly installments of \$26,550.00 each, calculated at \$2.25 per square foot (the "Base Rent"), in advance on the first day of each month during the Term. On the first anniversary of the Commencement Date, and each anniversary of the Commencement Date thereafter, the Base Rent shall increase by an amount equal to three percent (3.0%) of the Base Rent for the prior twelve months of the Term. All Base Rent and other charges payable hereunder by Tenant to Landlord shall be made to Landlord at the address set forth above, or other address provided by Landlord to Tenant. Tenant shall commence payment of Base Rent for the period beginning May 1, 2014 and shall have ramped billing for Base Rent in accordance with the following schedule through January 31, 2015:

Ramped Billing Schedule

Months During the Ramp Period	Monthly Base Rent
Commencement Date – May 1, 2014	\$0
May 1, 2014 – June 30, 2014	\$ 3,982.50 (15% of Base Rent)
July 1, 2014-October 31, 2014	\$7,965.00 (30% of Base Rent)
November 2014	\$13,275.00 (50% of Base Rent)
December 2014	\$18,585.00 (70% of Base Rent)
January 2015	\$23,895.00 (90% of Base Rent)
February 2015 and thereafter	\$26,550.00 (100% of Base Rent)(subject to adjustment pursuant to this Section 4(a))